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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/855,819

05/14/2001

Donald Robert Martin Boys

P652D1

9684

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7590

10/19/2005

CENTRAL COAST PATENT AGENCY

PO BOX 187

AROMAS, CA 95004

EXAMINER

YAO, KWANG BIN

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/855,819

Applicant(s)

BOYS, DONALD ROBERT  
MARTIN

Examiner

Kwang B. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/16/05; 3/24/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 42 and 48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not disclose the following features: regarding claim 42, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link and downloads audio content from the first link for a preprogrammed time period, then continues reading the embedded code for a second link, and if a second link is found accesses the second link and downloads audio content from the second link for the preprogrammed time period; regarding claim 48, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link and downloads audio content from the first link for a preprogrammed time period, then continues reading the embedded code for a second link, and if a second link is found accesses the second link and downloads audio content from the second link for the preprogrammed time period.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 38-41, 43-47, 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Mackintosh et al. (US 6,349,329).

Mackintosh et al. discloses a communication system comprising the following features: regarding claim 38, a Web browser application for an Internet connectable audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line3), comprising: a mechanism for invoking (Fig. 6; column 9, line 48 to column 10, line 62) a Universal resource Locator URL of an accessible site on the Internet; and functionality for reading embedded code in the site to find a link (column 10, lines 4-28) to downloadable audio content; wherein the browser determines a link (column 10, lines 4-28; column 14, lines 3-7) is a link to downloadable audio content by presence of code for initiating an audio player application; regarding claim 39, wherein the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line3) is an Internet radio; regarding claim 40, wherein the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line3) is a personal computer; regarding claim 41, wherein, after determining a link

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(column 10, lines 4-28; column 14, lines 3-7) is a link to downloadable audio content, the Web browser application invokes the link and downloads an audio stream provided at the destination of the link to the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line 3); regarding claim 43, wherein the link to downloadable audio content is a live (column 6, lines 38-42) broadcast radio audio stream offered over the Internet; regarding claim 44, a method for finding and invoking (Fig. 6; column 9, line 48 to column 10, line 62) live (column 6, lines 38-42) audio data streams associated with links on a Web site, comprising steps of (a) invoking (Fig. 6; column 9, line 48 to column 10, line 62) a Universal resource Locator URL of an accessible site on the Internet from an Internet connectable audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line 3); (b) upon accessing the accessible site, reading embedded code in the site to find a link (column 10, lines 4-28) to downloadable audio content; and (c) determining a link (column 10, lines 4-28; column 14, lines 3-7) is a link to downloadable audio content by presence of code for initiating an audio player application; regarding claim 45, wherein the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line 3) is an Internet radio; regarding claim 46, wherein the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line 3) is a personal computer; regarding claim 47, wherein, after step (c) determining a link (column 10, lines 4-28; column 14, lines 3-7) is a link to downloadable audio content, performing a step (d) invoking (Fig. 6; column 9, line 48 to column 10, line 62) the link and downloading an audio stream provided at the destination of the link to the audio player device (Fig. 5, user terminal 212; column 8, lines 32-64; column 9, line 60 to column 10, line 3); regarding claim 49, wherein the link to downloadable audio content is a

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live (column 6, lines 38-42) broadcast radio audio stream offered over the Internet. See column 1-25.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 42 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackintosh et al. (US 6,349,329) in view of Lowell (US 6,012,086).

Mackintosh et al. discloses the claimed limitations above. Mackintosh et al. does not disclose the following features: regarding claim 42, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link and downloads audio content from the first link for a preprogrammed time period, then continues reading the embedded code for a second link, and if a second link is found accesses the second link and downloads audio content from the second link for the preprogrammed time period; regarding claim 48, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link and downloads audio content from the first link for a preprogrammed time period, then continues reading the embedded code for a second link, and if a second link is found accesses the second link and downloads audio content from the second link for the preprogrammed time period.

Lowell discloses a system comprising the following features: regarding claim 42, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link (EVENT 1, SOURCE URL) and downloads audio content from the first link (EVENT 1, SOURCE URL) for a preprogrammed time period (Fig. 5, START TIME, STOP TIME), then continues reading the embedded code for a second link (EVENT 2, SOURCE URL), and if a second link (EVENT 2, SOURCE URL) is found accesses the second link (EVENT 2, SOURCE URL) and downloads audio content from the second link (EVENT 2, SOURCE URL) for the preprogrammed time period (Fig. 5, START TIME, STOP TIME); regarding claim 48, wherein the Web site comprises more than one link to downloadable audio content, and the browser invokes a first link (EVENT 1, SOURCE URL) and downloads audio content from the first link (EVENT 1, SOURCE URL) for a preprogrammed time period (Fig. 5, START TIME, STOP TIME), then continues reading the embedded code for a second link (EVENT 2, SOURCE URL), and if a second link (EVENT 2, SOURCE URL) is found accesses the second link (EVENT 2, SOURCE URL) and downloads audio content from the second link (EVENT 2, SOURCE URL) for the preprogrammed time period (Fig. 5, START TIME, STOP TIME). See column 6, lines 20 to column 9, line 18. It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system Mackintosh et al., by using the features, as taught by Lowell, in order to provide an efficient system by eliminating the need for a user to manually access the event and initiate the recording process. See Lowell, column 1, lines 52-55.

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mackintosh et al. (US 6,317,784) discloses a media player system.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 571-272-3182. The examiner can normally be reached on M-F.

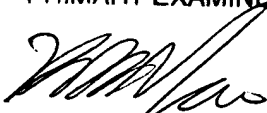
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**KWANG BIN YAO**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Kwang B. Yao', is written over the printed name.

Kwang B. Yao  
October 14, 2005